

CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION

Erika E. Lorenz, Esq. SBN 170287
Rebecca M. Westmore, Esq. SBN 148152
300 Capitol Mall, 17th Floor
Sacramento, California 95814
Telephone: 916 492-3561
Facsimile: 916 324-1883

Attorneys for Harry Low,
California Insurance Commissioner

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA
SACRAMENTO**

In the Matter of the Licenses and Licensing
Rights of

OLD REPUBLIC TITLE
COMPANY,

Respondent.

File No. SF 15327-A
OAH No. _____

AMENDED ACCUSATION;

NOTICE OF ALLEGED NONCOMPLIANCE
AND HEARING PURSUANT TO SECTION
12389(d);

DEMAND PURSUANT TO SECTION 12409;

And,

ORDER TO SHOW CAUSE, STATEMENT
OF CHARGES, AND NOTICE OF HEARING
PURSUANT TO CALIFORNIA INSURANCE
CODE SECTIONS 790.05, 12389(d), AND
12409.

The Insurance Commissioner of the State of California (Insurance Commissioner) in his
official capacity alleges that:

I.

Respondent OLD REPUBLIC TITLE COMPANY (Old Republic) is licensed by the
Insurance Commissioner to act as an underwritten title company in the State of California,

1 pursuant to Section 12389 of the California Insurance Code. Old Republic is licensed to conduct
2 title insurance business in twenty (20) counties in the State of California. As of December 1998,
3 Old Republic maintained eighty-seven (87) offices in the State of California.

4 II.

5 From 1998 to the present, the Insurance Commissioner examined the operations of Old
6 Republic, pursuant to subsection (c) of Section 12389 of the California Insurance Code. The
7 examination occurred in several Old Republic branch offices in numerous counties in which Old
8 Republic owns and maintains title insurance offices.

9 III.

10 During the time period identified in Paragraph II herein above, the Department of
11 Insurance (Department) received numerous complaints from persons concerned about Old
12 Republic's conduct relating to illegal rebate/inducement activities. The Department investigated
13 these complaints, and as a result, the Insurance Commissioner alleges that Old Republic has
14 engaged in the following illegal rebate/inducement activities:
15

16 A. Computer Training Courses for Real Estate Agents.

17 Old Republic organized and continuously conducted approximately four thousand
18 eighty-six (4086) computer training courses for the purpose of training real estate agents.
19 These computer courses were advertised on Old Republic Title letterhead in monthly
20 Realtor Guide Education Calendars. The courses offered included the following subject
21 matters not related to the title insurance industry: Instant Impact, Lightning,
22 Sellmore/Showpro, Top Producer, Top Producer II, Top Producer – Intro & Contacts, Top
23 Producer Listings and Closings, PC Access- New Agent Check Off, Top Producer 6.0
24 Managing Contacts for the New User, Top Producers 6.0 Managing Listings & Flyers
25 (level 3), Top Producers 6.0 Letters and Flyers (level 3), and M.S. Office for Real Estate.
26
27
28

For the approximately four thousand eighty-six (4086) computer educational courses that were conducted in numerous Old Republic offices throughout the state, Respondent expended significant resources, including but not limited to money and employee time, as follows:

Offices/Regions	Length of Time Training Has Been Occurring	Total Employee Hours Spent on Training	Total Salary Costs for Training
Alameda	17 months	1224	\$28,908.50
Contra Costa	72 months	1368	\$37,168.56
Los Angeles	22 months	660	\$11,500.00
Marin/ Sonoma	32 months	1280	\$48,000.00
Monterey/Santa Cruz	9 months	between 836 & 1036	\$40,068.90
Orange	9 months	288	\$5,130.00
Riverside/ San Bernardino	9 months	2448	\$42,016.00
Sacramento/ Placer/El Dorado	60 months	6720-7200	\$27,900.00
San Diego	39 months	2496	\$50,699.22
San Joaquin	46 months	2944	\$64,400.00
San Mateo	33 months	1848	\$47,569.50
Santa Clara	41 months	5576	\$135,606
Ventura	14 months	84	<u>\$1386.00</u>
TOTAL			\$540,403.25

1 B. Real Estate Booklet Printing.

2 Old Republic repeatedly acted as printer and publisher for real estate booklets
3 including: 'For Sale by Owner,' 'Sellers HandBook,' 'Community Information,' and 'Home
4 Buyers.' The printed booklets were not connected to the business of title insurance and were
5 tools to be used by real estate agents. Numerous booklets were printed with the statement
6 "prepared with the assistance of Old Republic Title Company." Virtually all booklets
7 contained the name(s) of real estate agents; moreover, some booklets also contained real
8 estate agents' pictures. The booklets were distributed through sales representatives of Old
9 Republic to realtors free of charge. Additionally, the Vice President and Regional Counsel of
10 Old Republic has indicated that Old Republic is aware of the publishing of these booklets and
11 that "the printing is done on a county by county basis based upon local market conditions."
12 The cost of printing these booklets is approximately \$1.00 per booklet. Approximately 50-
13 100 copies of each type of booklet are printed each month. The printing of the booklets
14 commenced in June 1998 and is continuing today. For each and every County in the State,
15 Old Republic prints a different version of the various booklets. Based upon a rate of
16 publishing at least one booklet per Old Republic office each month, the financial benefit to
17 real estate agents is estimated to be two hundred twenty six thousand two hundred dollars
18 (\$226,200.00). This figure is calculated as follows: 87 offices x 1 (booklet) x 100 (# of
19 copies) x 1 (\$1) x 26 (number of months investigated).

20 C. Educational Programs.

21 On five (5) occasions in 1999, Old Republic organized and offered a continuing
22 educational course and catered luncheon for real estate agents. These courses were offered in
23 Pacifica, Redwood City, San Mateo, San Bruno, and Half Moon Bay. The registration fee for
24 the course was thirty-five dollars (\$35.00). Approximately twelve to fifteen (12-15) persons
25
26
27
28

1 attended each course which lasted approximately two and one-half to three (2 ½-3) hours.
2 Old Republic provided one (1) paid employee per course to host the event. According to the
3 Vice President and Regional Counsel of Old Republic, the salary of the paid employee was
4 twenty-two dollars (\$22.00) per hour. Lunch was provided for the course participants at a
5 cost of four dollars (\$4.00) per person, paid by Old Republic.
6

7 Other educational events include:

- 8 1) On March 18, 2000, the Glendale office of Old Republic hosted an educational event
9 offering instruction for the California Notary Commission. The Notary Public Exam
10 was administered immediately following the event.
11
- 12 2) On April 6, 2000 the Glendale office of Old Republic Title Company hosted a seminar
13 titled "Sell more Homes with Rehab Loans. A must for the Real Estate Professional."
14
- 15 3) On June 5, 2000 the Riverside office of Old Republic hosted an educational event
16 titled "How to Get a Listing/Referral Today". No tuition was charged and lunch was
17 served at this event.
18
- 19 4) On May 16, 2000 the Riverside office of Old Republic hosted an educational event
20 titled "How to Sell HUD Homes" No tuition was charged for this event.
21
- 22 5) On March 22, 2000 the Glendale office of Old Republic Title Company hosted an
23 event titled "Understanding Business Opportunities." Licensed real estate agents
24 received three hours of D.R.E. Credit for attending this event.
25
- 26 6) On May 15 1999, the Contra Costa County office of Old Republic hosted a cold
27 calling party for real estate agents. Old Republic provided food for the event. In total,
28 old Republic provided unlawful rebates/inducements in the form of continuing
educational courses in excess of \$6,000.00.

IV.

The actions by Old Republic, outlined in Paragraph III herein above, have resulted in the following violations of law:

1. Old Republic's practice of providing extensive and continuing computer training to real estate agents, as described in Paragraph III Section (A) herein above, exceeds action permissible under Section 12404(d) of the California Insurance Code. Educational programs, such as those outlined in Paragraph III herein above, constitute unlawful rebate/inducement activities in violation of subsections (a), (c)(1), (c)(2), and (c)(6) of Section 12404 of the California Insurance Code.

2. Old Republic's practice of printing and distributing booklets, which bore no relationship with the practice of title insurance, but rather were accouterments for the benefit of real estate agents, as described in Paragraph III Section B herein above, violates subsections (a), (c)(1), (c)(2), and (c)(6) of Section 12404 of the California Insurance Code and Section 12405.7 of the California Insurance Code.

3. Old Republic's practice of offering continuing educational courses for real estate agents, as described in Paragraph III Section C herein above, violates subsections (a), (c)(1) and (c)(2), (c)(6) of Section 12404 of the California Insurance Code.

4. Old Republic's actions, as described in their entirety in Paragraph III herein above, constitute an unfair method of competition and/or unfair or deceptive acts or practice in this State in violation of Subsection (c) of Section 790.03 of the California Insurance Code.

//

//

//

V.

DEMAND PURSUANT TO CALIFORNIA INSURANCE CODE § 12904

As a result of Old Republic's actions, as set forth in Paragraph III herein above, and pursuant to California Insurance Code Section 12409, Respondent is liable to the people of California in the amount of three million eight hundred sixty-nine thousand two hundred sixty-six dollars and twenty-five cents (\$3,869,266.25) which is five times the amount of the unlawful rebates/inducements of seven hundred seventy-three thousand eight hundred fifty three dollars and twenty five cents (\$773,853.25). Demand for said three million eight hundred sixty-nine thousand two hundred sixty-six dollars and twenty-five cents (\$3,869,266.25) is hereby made. Pursuant to California Insurance Code Section 12976, Respondent has ten (10) days to make payment.

VI.

ORDER TO SHOW CAUSE PURSUANT TO CALIFORNIA INSURANCE CODE SECTIONS
790.05, 12389(D) AND 12409

WHEREAS, the Insurance Commissioner has reason to believe, based upon the facts set forth in Paragraph III herein above, that Old Republic has engaged in and currently is engaging in unfair methods of competition and/or unfair or deceptive acts or practices and in unlawful rebate/inducement activities in this State; and,

WHEREAS, the Insurance Commissioner is authorized to hold a public hearing pursuant to Sections 790.05, 12389(d) and 12409 of the California Insurance Code, at which the Insurance Commissioner contends he could seek:

1. To prohibit Old Republic from conducting its business for a period of not more than one year, pursuant to Section 112389(d);

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. To restrict or suspend Old Republic’s license to act as an underwritten title company in the State of California, pursuant to Section 12409 of the Insurance Code; and,
3. To impose a monetary and civil penalty pursuant to Sections 790.035 and 12409 of the California Insurance Code.

DATED: _____

HARRY W. LOW
Insurance Commissioner

By: _____
ERIKA E. LORENZ,
Acting Assistant Chief Counsel